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Chair: Mr. Mac-Donald ..... (Suriname)

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The meeting was called to order at 10.10 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/67/387-S/2012/717 and A/67/390)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/67/159, A/67/181, A/67/271, A/67/56, A/67/163, A/67/260, A/67/260/Add.1, A/67/293, A/67/296, A/67/226, A/67/288, A/67/267, A/67/285, A/67/287, A/67/396, A/67/303, A/67/292, A/67/289, A/67/268, A/67/299, A/67/304, A/67/286, A/67/310, A/67/277, A/67/368, A/67/178, A/67/275, A/67/305, A/67/302, A/67/278, A/67/380, A/67/261 and A/67/357)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/67/362, A/67/333, A/67/327, A/67/370, A/67/379, A/67/383 and A/67/369)

1. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order) said that it was more important than ever to reaffirm that human rights were not luxuries to be enjoyed in times of prosperity alone, but rather inalienable entitlements which should be available to everyone at all times. The Charter of the United Nations committed Governments and civil society to an agenda of peace, development and human rights, and those principles were advanced by the General Assembly, the Human Rights Council and human rights treaty bodies. Norms, monitoring mechanisms and actual enforcement on the ground demonstrated that real progress had been achieved in implementing them.

2. Because the international order was neither particularly democratic nor equitable, it had fallen to the General Assembly to adopt resolutions aimed at progressively moving towards a more representative international system. His mandate, which had been established by Human Rights Council resolution 18/6 in September 2011, required him to identify obstacles to the realization of a more democratic and equitable international order, as well as to formulate concrete recommendations on ways to overcome them.

3. In fulfilling that mandate, he had necessarily built on the work undertaken by other human rights mechanisms and institutions, in particular the Social Forum held in Geneva in October 2012, from which he had drawn valuable insights. He likewise endorsed the views of former Secretary-General Kofi Annan, who had proposed structural reforms to the United Nations, including the composition of the Security Council, so as to make it more representative. However, daunting obstacles remained, most notably the tendency of some Member States to apply international law selectively, as well as the non-respect of international treaties.

4. With regard to a more equitable world order, it was clear that the financial crisis was also a moral crisis, and that the speculation on financial and commodity markets which had engendered it should have been forestalled. Furthermore, while proposals to privatize vital sectors of the economy, especially essential social services, was regarded by many as a legitimate solution to the crisis, it would in effect entail a regression in human rights terms.

5. In addition, Member States should engage in serious disarmament negotiations and redirect valuable resources away from the military-industrial complex and into education, health care and social services. World public opinion should be measured more objectively and the rejection by civil society of war must be heard. Peace was a precondition for the realization of a more democratic and equitable world order, and an end to propaganda for war, which was practiced in violation of Article 2(4) of the United Nations Charter and article 20 of the International Covenant on Civil and Political Rights, was called for.

6. In response to such challenges, the international community had made several tentative attempts at a solution, including the creation by the Human Rights Council of an intergovernmental working group tasked with drafting a Declaration on the Human Right to Peace, which would be submitted to the General Assembly for adoption in due course. In considering ways to change the prevailing paradigms which governed the world, he proposed abandoning the division of rights into artificial categories of first, second and third generation rights. Rather, the issue could be viewed in terms of enabling rights, such as the rights to peace, food, health and homeland; inherent rights, such as equality and non-discrimination; procedural rights, such as due process and freedom of expression; and outcome rights, such as the right to identity and the enjoyment of one's culture and opinions.

7. It was his intention to demonstrate to those in doubt that his mandate was sound and could serve as a bridge between North and South, East and West, in keeping with the motto that in order to achieve peace, justice should be cultivated.

8. **Ms. Mozalina** (Russian Federation) said that a democratic and just international order should be understood to be linked to sustainable development and the sovereign equality of States, with no particular country or group of States imposing their own development model on others.

9. A just and democratic international order was closely linked to the rule of law, at the international as well as the national level. It was unacceptable for certain States to determine, based on their own selfish objectives, which international treaties they valued and deemed acceptable, and which they would ignore in a given situation. There could be no just and democratic international order in the absence of universal and unswerving compliance with the generally acknowledged norms of international law, and above all, with the Charter of the United Nations.

10. **Ms. Thomas** (Cuba) said that her country welcomed the historic decision of the Human Rights Council to establish a mandate for an Independent Expert tasked with the promotion of a democratic and equitable international order. Given the widening gap between developed and developing economies, the slowing pace of technology transfers and the persistence of market barriers in the developed world to developing world exports, such a mandate was more vital than ever.

11. The countries of the South had for too long suffered from the distortions of the international system, and for that reason her country had annually submitted a related draft resolution which counted on the majority support of the international community. In that context, she wished to know what initiatives could be taken to overcome the obstacles to a democratic and equitable international order.

12. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order) said that the key to a more equitable order was participation and multilateralism. Governments should not interpret international law and international treaties to suit their own needs; all Members States had a common commitment through the Charter of the United Nations to uphold international law and agreements, and to respect the principle of self-determination and sovereign equality.

13. The Human Rights Council had empowered him with a mandate to prepare a report on participation. Technology cooperation and transfers were indispensable, and it should be possible to exploit the momentum of globalization to advance civil, political, economic, cultural and social rights. He understood his mandate to be a non-confrontational one which he would use to persuade doubters that progress was possible. He was keenly aware of the concerns regarding democracy, the rule of law and the need to make progress on civil and political rights, and he regarded civil, political, economic, cultural and social rights as interrelated issues which should be addressed from a unified position. He welcomed all comments and proposals from Member States and non-governmental entities for inclusion in the report, which he would present at the sixty-eighth session of the General Assembly.

14. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), introducing the second report to the General Assembly evaluating the mandate and working methods of the Office of the Ombudsperson to the Al-Qaida and Taliban Sanctions Committee as established by Security Council resolution 1989 (2011), said that minimum international standards were applied in the report to the mandate of the Ombudsperson. It furthermore assessed the impact on the due process deficits inherent in the Al-Qaida sanctions regime, and made recommendations for amending that mandate in order to bring it into full conformity with international human rights norms. The Al-Qaida sanctions regime was due for reconsideration and renewal at the end of 2012, and it was clear that there were a number of divergent views among Member States as to whether the regime called for further modification. The aim of his report was to offer guidance to member States in formulating their positions on those contentious issues.

15. In preparing the report, he had consulted widely with relevant stakeholders, with the Chair of the Sanctions Committee, the Committee itself, the Sanctions Monitoring Team, the Office of the Ombudsperson and with a number of lawyers acting for listed individuals. He had been granted privileged access to relevant materials and information on a confidential basis, and had been able to witness how

the listing and delisting mechanism operated. He was therefore satisfied that the description given in the report of the shortcomings of the regime in the area of due process was accurate.

16. The report was based on the proposition that for a sanctions regime to be effective it should be universally applied. The Security Council had determined that international terrorism perpetrated by Al-Qaida represented a threat to international peace and security, and that a sanctions regime was necessary in order to counter it. It was furthermore essential that such a regime should be capable of effective enforcement.

17. There was concern that the Security Council's authority to make listing decisions without independent review would allow individual Member States to enact far-reaching executive decisions unconstrained by domestic judicial review or by the human rights treaties by which they were bound. There were also concerns that individual Member States had in the past nominated individuals and entities for inclusion in the Consolidated List as a means of suppressing political dissent. As a result, the sanctions regime had been strongly criticized over the years, including by the High Commissioner for Human Rights, the previous Special Rapporteur and a wide range of national and regional courts and tribunals.

18. The question which the report sought to answer was whether the introduction of the Office of the Ombudsperson was sufficient to address those concerns. He had concluded that further changes were necessary in order to bring the procedure into line with minimum international standards of due process, notwithstanding the improvements brought about by Security Council resolutions 1904 (2009) and 1989 (2011).

19. A number of adverse judicial rulings against the sanctions regime, including by the European Court of Human Rights, had undermined both its perceived legitimacy and its effective enforcement. If the measures could not be lawfully implemented at the national and regional levels, then the logic of universal sanctions was obviated. It was therefore imperative that the Security Council should find a solution that was compatible with the human rights standards binding member States. In that context, the report concluded that the Security Council's powers under Chapter VII of the Charter of the United Nations were broad enough to enable it to enhance the effectiveness of the sanctions regime by establishing an independent adjudicator at the United Nations level with jurisdiction to review and overturn a designation by the Sanctions Committee.

20. If such measures were not taken, it would in his view pose insurmountable obstacles to the effective enforcement of the sanctions regime in Europe and elsewhere. If the United Nations took the implementation of targeted sanctions seriously, it was vital that it should take steps to make the system more compatible with norms of international law.

21. **Ms. Fontana** (Switzerland) said that her country welcomed the insistence on bringing the sanctions regime into line with the norms of international human rights law. While the improvements implemented to the listing and de-listing procedures were important, the report nevertheless demonstrated that respect for the right to a fair and public hearing before a competent, independent and impartial tribunal was insufficient in and of itself. As long as the United Nations system did not offer the possibility of an independent judicial review of the sanctions list, additional violations were inevitable. As the report pointed out, arrests carried out at the national or regional levels which constituted violations of human rights undermined the applicability of resolutions introduced by Member States and negated the principle of universally applicable sanctions.

22. For those reasons, her country supported the conclusion of the Special Rapporteur that the current system was not entirely compatible with international standards of human rights, and that it therefore risked becoming ineffective. In that context, she wished to know whether any legal reasons prevented the extension of mechanisms similar to those established by the Office of the Ombudsperson to the Al-Qaida and Taliban Sanctions Committee to other sanctions regimes.

23. **Mr. De Leon Huerta** (Mexico) said that as a non-permanent member of the Security Council, his country had fully supported the establishment of the Office of the Ombudsperson in the interest of the just and transparent application of counter-terrorism sanctions. The issue had raised a number concerns in the General Assembly, and the report had addressed them to a great extent.

24. In that light, he wished to know what additional measures could be taken besides the establishment of

the Office of the Ombudsperson to ensure that there was equality of the parties in sanctions-related proceedings, what measures could be adopted to guarantee the protection of human rights in those circumstances, and whether the protection of human rights was an issue related to the rule of law.

25. **Mr. Butt** (Pakistan) said that his country fully supported the recommendations of the Special Rapporteur as it too had worked diligently to promote due process in all sanctions-related proceedings. He wished to know whether the Ombudsperson should have a role in the listing process as well as the delisting process, whether the Security Council should pay reparations to victims of unjustified listings, and whether Security Council resolution 1988 (2011) was regressive in terms of due process and human rights assurances, as the role of the Ombudsperson had been eliminated entirely in the case of individuals listed on the Taliban or 1988 Committee list. In addition, he asked whether the Special Rapporteur would recommend introducing an Ombudsperson in other sanctions regimes with similar measures.

26. **Mr. Farhad** (Islamic Republic of Iran) said that effective counter-terrorism measures and the protection of human rights were mutually reinforcing and complementary goals, in which determined efforts to eliminate the scourge of terrorism and address the human rights of victims of counter-terrorism measures should be an essential component.

27. The adoption of overly broad definitions of terrorism carried with it the potential for deliberate misuse, with attendant human rights violations. Under international human rights law, the use of torture to elicit information from terrorist suspects was prohibited and the statements obtained were inherently unreliable, yet a number of counter-terrorism measures had fallen short of that standard around the world, particularly with respect to the use of secret detention, torture and interrogation methods.

28. While terrorist acts constituted flagrant violations of human rights law, greater protections should be afforded to civilian populations caught in the middle. In particular, the issue of so-called "targeted killings" by unmanned aerial vehicles should be urgently addressed, as their use in extrajudicial killings had inflicted scores of deaths on innocent civilians and traumatized entire societies.

29. In that regard, he wished to know whether there had been any studies to determine if the measures taken by Governments to combat terrorism complied with their obligations under international human rights law, and whether the Special Rapporteur had conducted such a study or planned to do so.

30. **Mr. de Bustamante Tello** (European Union) said that the sanctions regime established by the Security Council had evolved over time, and significant improvements had been made in terms of due process, notably through the adoption of Security Council resolution 1989 (2011).

31. With regard to some of the recommendations made in the report, he wished to know what the Special Rapporteur had in mind with the observation that the standard for listing and delisting should be that it was more likely than not that a designated individual was associated with Al-Qaida, and why he considered that to be a higher standard than the one already being applied by the Ombudsperson, which focused on whether there was a reasonable and credible basis for the continued listing of a designated individual or entity.

32. **Mr. Newman** (United States of America) said that his country welcomed the recognition by the Special Rapporteur of the reforms which had been implemented by the United Nations system through the adoption of Security Council resolution 1989 (2011), which expanded the mandate of the Ombudsperson. The reforms were both significant and necessary, and should not be discounted.

33. The Security Council had recognized the unique nature of the Al-Qaida sanctions regime and the need to incorporate transparent and fair procedures to ensure that individuals received a more effective right to appeal their designations. Nevertheless, there was concern regarding the statement that the Al-Qaida sanctions regime continued to fall short of international minimum standards of due process. The Security Council had consistently taken seriously suggestions for procedural improvements, and it was difficult to conclude that the independent review conducted by the Ombudsperson failed to safeguard petitioners' due process rights.

34. The decision to impose sanctions should meet a standard of reasonableness and not of criminality, while actions taken by the Security Council should be regarded as being preventive and not punitive. His

country shared the view that the procedure currently in practice was robust and was equipped with significant protections that enshrined the principles of fairness and transparency.

35. In that light, he wished to know whether the Special Rapporteur could clarify his suggestion that there should be a two-tiered test for the Ombudsperson in reviewing the listing of individuals and entities, including an association with Al-Qaida and proportionality, and whether that implied that the Ombudsperson should be free to modify the impact of sanctions. He also wished for clarification of the recommendation that the Security Council should incorporate some of the administrative law models that existed in many Members States, and whether the Special Rapporteur was aware of any such models at the regional level.

36. **Mr. McKell** (United Kingdom) said that Security Council resolution 1989 (2011) was a significant tool to address the threat posed to international peace and security by Al-Qaida. The Security Council had taken important steps to further enhance fair and clear procedures in the sanctions regime, including through the establishment of the Office of the Ombudsperson. The resolution had likewise mandated that the Ombudsperson should make recommendations to the Sanctions Committee on delisting petitions, and had introduced a new decision-making process making it difficult for the Committee to overturn recommendations by the Ombudsperson to delist.

37. It had been amply demonstrated that the Ombudsperson process worked effectively, and that the procedures employed were robust and contained significant protections. There was thus concern with the assertion that the Al-Qaida sanctions regime fell short of international minimum standards of due process. He looked forward to continued engagement with the Special Rapporteur in future human rights and counter-terrorism matters, and wished to know his plans for future reports.

38. **Mr. Barriga** (Liechtenstein) said that given the high compliance rate of the Sanctions Committee with the recommendations of the Ombudsperson, he wondered whether the suggestion in the Special Rapporteur's report that the Security Council should abide by the Ombudsperson's recommendations more fully was superfluous.

39. He likewise wished to know whether the standard of "more likely than not" did not in fact parse the distinction between preventive and punitive, because what mattered most was the degree to which sanctions affected targeted individuals. Because sanctions were highly likely to impact the rights of an individual so targeted, the standard for inclusion should be extremely high. In that regard, he wished to know whether the Special Rapporteur had the ability to quantify the standard of "more likely than not", which seemed to set a very low barrier given the potential severity of the consequences of being included on the Consolidated List.

40. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), said that, regarding legal obstacles to the extension of the existing Ombudsperson regime, or the one being proposed in its stead, to other targeted sanctions regimes, his mandate was squarely focused on the Al-Qaida sanctions regime, and any other regimes were tangential to it.

41. Some overlap did exist — there had for instance been questions raised about separating the Taliban sanctions regime from the Al-Qaida sanctions regime. In certain cases, individuals applying for delisting under one sanctions regime found themselves immediately listed on another sanctions regime which lacked an Ombudsperson, calling into question what procedural safeguards should exist for other targeted sanctions regimes.

42. However, it was generally recognized that the Al-Qaida sanctions regime set the standard for all others; it had been the subject of the greatest number of sustained legal challenges. It had taken 10 years of the Al-Qaida sanctions regime to introduce a measure of due process, and the real question was why the Security Council had reacted so slowly. Going forward, however, there was no reason why the procedural reforms to the Al-Qaida sanctions regime should not be applied to other country-specific targeted regimes.

43. As to what additional measures should be implemented in order to secure equality of the parties in sanctions-related proceedings, he said that a full and fair review should be provided, that any exculpatory materials should be shared with individuals being considered for listing, that evidence obtained by torture should be excluded, and that funding for legal

representation should be provided, along with adequate interpretation and translation facilities.

44. With respect to the relationship between the sanctions regime and the rule of law, both the General Assembly and the Security Council had recognized that maintaining peace and security and securing human rights were not conflicting imperatives, but should be interpreted and applied in unison. Respect for human rights and the rule of law in the context of counter-terrorism efforts was not simply a question of legal legitimacy, but touched on the effectiveness of preventive measures. Experience had shown time and again that human rights abuses in counter-terrorism efforts were a significant driving force behind the spread of further terrorism.

45. As to whether the Ombudsperson should have a role to play in the listing process, if new listings were properly communicated to the listed individual, and an effective and internationally recognized procedure for delisting existed, then an individual or entity had an opportunity to apply for redress within the time limit allowed and there was no contradiction. With regard to reparations for illegitimate listings, such a compensatory system already existed.

46. With respect to the Taliban sanctions regime, because the process inside Afghanistan was the subject of a political dispute resolution system which was directly tied to a sanctions regime, the Taliban regime was in a category of its own. As to additional reports being prepared by the Special Rapporteur, the next presentation to the Human Rights Council would be a review of international minimum standards needed to secure the accountability of officials who had participated or collaborated in torture or rendition, as well as a report reviewing the legality of targeted killings, particularly by unmanned aerial vehicles.

47. As to why existing procedures fell short of international standards, the answers were self-evident and contained in the report: the Ombudsperson's recommendations were not binding, the Sanctions Committee acted as its own arbiter, there was no independent judicial review, the consequences were potentially very serious, evidence obtained through torture was liable to be admitted, and the Ombudsperson did not have access to all of the relevant evidence. In addition, there was no duty on the part of Governments to furnish exculpatory materials, and there was no adequate system for disclosure or for providing counsel and interpretation services.

48. With respect to the two-tiered test for Ombudspersons, or why there should be a proportionality test in addition to association, one had only to look at the experiences of humanitarian organizations, which frequently complained that the existing sanctions regime affected their ability to deliver aid in the field and to raise needed funds, as well as to engage in conflict resolution when invariably one of the parties to a conflict had been designated as a terrorist or an associate thereof.

49. Finally, the formulation of "more likely than not" was a direct result of the Security Council's determination to maintain the facade that sanctions were not criminal in nature, and that the use of criminal standards of proof was therefore expressly forbidden. The central problem of listing was that it was a diplomatic process involving bilateral negotiations between Governments and did not meet international due process standards.

50. **Ms. Izsák** (Independent Expert on Minority Issues), presenting her report (A/67/293), said that, regrettably, twenty years after the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, all regions were showing disturbing trends, and Member States must step up efforts to protect minority rights and promote intergroup and interfaith dialogue. In some countries progress had at best been too slow, and there had even been a rising tide of anti-minority sentiment. Violence against religious minorities and violations of their rights were a source of particular concern.

51. Her report focused on practical measures to promote implementation of the Declaration by means of national institutional and policy frameworks targeting minority rights, since minority rights protection went beyond measures against discrimination and required dedicated institutional attention. Institutionalizing expertise on minority issues helped Governments and independent bodies to identify problems and their causes, and develop sustainable solutions. Furthermore, while legal protection of minority rights was the essential foundation, too often there was an implementation gap, and institutional attention provided the logical step from legislation to concrete action. Her report therefore

focused on the importance of attention to minority issues within Governments, national human rights institutions and other relevant bodies.

52. In many countries, specialized government bodies or departments had been established and given primary responsibility for designing and leading Government policy on minorities. However, such bodies and departments were most effective when they worked closely with line ministries to mainstream minority issues across all relevant bodies. Attention to minority rights should also be incorporated into the work of independent bodies including national human rights institutions, ombudspersons and specialist commissions, as well as advisory bodies. All of those stakeholders could help to institutionalize dialogue between Government and minorities, and ensure that minority issues were reflected in local and national policy and decision-making processes.

53. Institutional attention to minority issues was also essential to change exclusionary practices and discriminatory perceptions about minority groups. To that end, institutions mandated to address minority issues should work with all sectors of society and both public and private bodies, and should be given sufficient funding, powers and political status. In addition, minorities should participate fully, both as staff of institutions at all levels and as essential partners in the work of Government and independent bodies. Non-governmental organizations also played a key role in promoting minority rights.

54. In States where minority populations were significant, inter-community relations were historically complex or ethnic and religious tensions existed, addressing the rights and concerns of minorities could be an important component of measures designed to resolve problems and grievances at an early stage, or prevent tensions and conflicts from arising. In any case, States should regard institutional attention to minority issues as an essential dimension of their obligations relating to human rights, equality and non-discrimination.

55. **Mr. de Bustamante** (Observer for the European Union) said that the European Union was founded on respect for human rights, including the rights of minorities, and it welcomed the report's focus on institutional attention to minority issues. His delegation wondered whether there were any examples of good practice in international or regional institutions relating to the participation of minorities in their work. It also asked what could be done to improve outreach and awareness raising, and to encourage minorities to report discrimination.

56. **Ms. Mozalina** (Russian Federation) said that there had been little progress in the world with regard to respect for the rights of minorities. In particular, she wished to draw attention to the mass statelessness of Russian-speaking minorities in a number of States of the European Union, and to the constraints placed on their socioeconomic, civil and political rights.

57. She urged the Special Rapporteur to study the situation of ethnic minorities in various countries and to respond rapidly to cases of violation of their rights and to other events of vital importance to members of minority groups.

58. **Ms. Ploder** (Austria) said that institutional early warning mechanisms were important in identifying tensions before they arose and preventing conflict, and her delegation wondered whether there were any examples of good practice in that area. It also sought information on any activities undertaken or planned to celebrate the twentieth anniversary of the adoption of the Declaration. Lastly, given that minority women and girls faced multiple forms of discrimination and violence, her delegation encouraged the Independent Expert to follow up on the recommendations arising from the fourth session of the Forum on Minority Issues.

59. **Mr. Farhad** (Islamic Republic of Iran) said that despite the positive steps taken by the international community to protect minority rights, discrimination on the basis of race, religion and ethnicity was on the rise, especially in Western countries, and minorities and migrants were increasingly the victim of hostility, violence and hate crime. In addition, anti-religious practices and policies such as anti-hijab legislation violated the rights laid down in the Declaration and threatened the religious identity of Muslim minorities. His delegation wondered what practical measures should be implemented to enhance implementation of the Declaration and address the factors undermining the religious and cultural identity of minorities.

60. **Ms. Izsák** (Independent Expert on Minority Issues) said that the Organization for Security and Cooperation in Europe (OSCE) had set a good example by establishing the post of the High Commissioner on National Minorities to protect the rights of all

minorities in general, as well as a Roma contact point within its Office for Democratic Institutions and Human Rights to protect the rights of Europe's most disadvantaged minority group in particular. In addition, local individuals of Roma origin participated in OSCE field missions, which had strengthened the participation of minorities. The Office of the United Nations High Commissioner for Human Rights also worked to increase the participation of minorities through its minority fellowship programme, which led to many of the participants returning to their countries as minority leaders who influenced national and international policy. Governments must work with minority representatives to establish trust and reassure victims that they would not face reprisals if they reported discrimination, and that such reports would be used to improve programmes and policies and provide better protection for all minorities.

61. Lack of citizenship, the rights and security of religious minorities and conflict prevention were among her key priorities for the next three years, and she was equally committed to protecting the rights of women and girls in particular. On the subject of statelessness, in cases where individuals had lived in a country for a period commensurate with their establishing well-developed community, social, economic and familial ties with that country, every consideration should be given by the State to granting them citizenship or legal rights to remain and all of their human rights as individuals and members of a minority group. In terms of conflict prevention, her report contained some examples of good practice, including the "Marseille Hope" initiative in France, the National Cohesion and Integration Commission of Kenya and the Ethnic Relations Commission of Guyana, as well as the Division for Ethnic Minorities within the Office of the Ombudsman of Colombia. Member States should learn from those positive practices and build on them.

62. The rise in violence against religious minorities was very disturbing, and she was deeply concerned about abuses of the rights of non-traditional groups and new minority groups, including undue restrictions on their religious freedoms and the activities of their leaders, administrative barriers to the registration of faith-based organizations, and general harassment and intimidation by law enforcement bodies and local authorities. An expert seminar would be held in Geneva to discuss ways to tackle hate crime and hate speech, and to strike a balance between freedom of expression and the ban on hate speech. Lastly, the twentieth anniversary of the adoption of the Declaration would be commemorated at the Forum on Minority Issues, where participants would discuss ways to promote its implementation.

63. **Mr. de Schutter** (Special Rapporteur on the right to food), introducing his interim report to the General Assembly (A/67/268), said that in 2012 he had focused on strengthening the right to food movement in Africa and had convened a round table in Nairobi to assess how countries in the region were making progress in establishing legal, institutional and policy frameworks and improving the effectiveness of food security strategies. Recent developments included the establishment of the Food and Nutrition Security Council by the Community of Portuguese-speaking Countries and a new initiative designed to combat hunger in West Africa launched by the Economic Community of West African States. He was also working on social protection as a key component of right to food strategies, and was promoting the establishment of a global fund to bridge the financing gap faced by least developed countries when creating social protection floors. Member States had a shared responsibility to support implementation of the right to social security and food, and should therefore assist countries in establishing those floors.

64. His report assessed the contribution of fisheries to global food security and examined how the right to food could guide efforts towards sustainable fisheries. The importance of fisheries was not reflected in the attention it received in discussions on food security, even though fish consumption accounted for 15 per cent of all animal protein consumed worldwide and the fisheries sector provided employment to more than 200 million people. The significance of small-scale fishing was generally underestimated because of the volume of unreported catch and because it served as an occasional safety net for coastal communities in times of crisis.

65. The report also explained the environmental challenges facing the fisheries sector, including the impact of climate change and pollution on fish populations. Overfishing was another major challenge, with the capacity of the global fishing fleet at least double that needed to exploit the oceans sustainably, and efforts to combat illegal, unregulated, unrecorded fishing failed because of capacity gaps and weak

governance in developing countries combined with a lack of commitment among flag States to prosecute their distant water fishing fleets. The Committee on Fisheries established by the Food and Agriculture Organization of the United Nations was developing international guidelines on securing sustainable small-scale fisheries, which was a very important initiative in view of the diverging views on how to ensure protection for small-scale fishers.

66. Lastly, local fishing communities should be involved in the design, implementation and assessment of fisheries policies, and States were encouraged to regulate industrial fishing, consider the introduction of exclusive artisanal fishing zones, strengthen the position of small-scale fishers in the production chain, support fishers' groups wishing to access export markets, and provide adequate social protection to communities dependent on fishing for their livelihoods. States should also take measures to support the role of women in the fisheries sector by ensuring their access to credit and providing them with adequate facilities at landing sites.

67. **Mr. de Bustamante** (Observer for the European Union) asked how States could ensure that the fisheries sector was incorporated into food security strategies and whether there were any examples of best practice in that regard. His delegation also wondered what steps States could take to strike a balance between promoting sustainable fisheries and meeting fish consumption needs.

68. **Ms. Mballa Eyenga** (Cameroon) said that her delegation was concerned that the Special Rapporteur had expressed doubt in his report about whether illegal, unreported and unregulated industrial fishing was a real problem given that most of the catch of small-scale fishers went unreported, since illegal industrial fishing had a significant impact on the marine environment, marine species and the availability of fish stocks, and could not be compared to small-scale fishing. However, her country agreed with the recommendations made in the report, especially those relating to the need to protect the rights and livelihoods of artisanal fishers and coastal communities, and sought guidance on how to implement those recommendations on the ground. Her delegation also wondered what the theme of the next special report would be.

69. **Mr. Gaspard** (Haiti) said that his Government had developed numerous programmes to tackle food security, which constituted a major challenge in his country, but its efforts were undermined every time a natural disaster struck. It therefore looked forward to holding consultations with the United Nations Development Programme on defining an environmental strategy and natural disaster prevention policy. As an island, Haiti supported the Special Rapporteur's recommendations on the development of fishing. His delegation wondered whether he planned to visit the country in the near future.

70. **Ms. Thomas** (Cuba) said that the Special Rapporteur's mandate was more important than ever, since the global crisis had led to sustained price increases and the inequitable distribution of food. Urgent measures were needed to tackle the unsustainable international food situation. Every year, Cuba had presented a draft resolution on food security, which had majority support among the international community, especially the developing countries. Her country sought further information on the role and importance of international cooperation and solidarity in enabling developing countries to tackle the problem of food security.

71. **Mr. Mosot** (Kenya) asked whether the Special Rapporteur planned to carry out any activities to establish consensus on the fact that the right to food was indeed a right and that the international community had an obligation to ensure that it was realized. On the subject of fishing, it was not clear from his report whether all options were being exploited to ensure that fishers were able to diversify or adopt better methods of fishing in the face of growing populations and falling fish stocks. It was particularly important to promote the development of fish farming, so that those who relied on fish were able to catch sufficient quantities not only for family consumption but to sell at market. His delegation wondered what institutional mechanisms were required to open up those markets to traditional fishers.

72. **Mr. Sjoberg** (Norway) said that his delegation recognized the important role of marine and inland fisheries in promoting food security, and supported a rights-based approach in that area. Given that the goal was to create synergies in the work of all stakeholders, he asked how different initiatives such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and the ongoing work on small-

scale fisheries being carried out by the Committee on Fisheries were related.

73. **Mr. Rahman** (Bangladesh) said that the right to food was a fundamental human right and his country supported the Special Rapporteur's mandate. It also welcomed his work on social protection, and urged all States to support his proposal to create a global fund to assist the least developed countries in establishing social protection floors. His delegation appreciated the emphasis placed on conservation, but wondered how countries could strike a balance between meeting demand for food and conserving fish resources.

74. **The Chair** said that overfishing was a major challenge facing the global fisheries sector, but asked the Special Rapporteur to indicate what specific problems were being faced by each region individually.

75. **Mr. de Schutter** (Special Rapporteur on the right to food) said that institutional reform was key in ensuring that the issue of fisheries was given greater attention in food security policies, and small-scale fishers should be involved in designing fisheries policy. The invisibility of fisheries was largely linked to the lack of empowerment and organization of small-scale fishers. Competition between small-scale fishers and industrial fleets was clearly increasing, and some large industrial fishing fleets from developed countries were now fishing in exclusive economic zones in developing country waters under fishing agreements, which was threatening the livelihoods of many small-scale fishers. The report contained some examples of initiatives designed to support small-scale fishers and ensure that they could continue to make a decent living from their relatively sustainable method of fishing, including the reservation of fishing zones for small-scale artisan fishers in the Maldives and the establishment of fishers' cooperatives in Brazil. However, the key in tackling the competition lay in recognizing it in the first place.

76. With regard to future reports, he had been tackling the issue of gender equality as an instrument to improve food security, and would submit a report on that subject in 2013. Like the issue of fisheries, gender equality was not given sufficient attention, even though the empowerment of women constituted a crucial component of the fight against hunger. In 2013, he would also present a report to the General Assembly on the legal and institutional implementation of the right to food, in which he would map the progress made in different regions of the world. In the meantime, he would focus on promoting the right to food in Africa and Asia in order to replicate the significant progress made in Latin America and the Caribbean, and would work closely with FAO. He also hoped to be able to visit Haiti in the near future, with a view to re-establishing food security in that country.

77. International assistance and cooperation in supporting the right to food was provided through mechanisms such as the Working Group on the Right to Development and the Independent expert on human rights and international solidarity, while his own efforts were focused primarily on providing guidance to States on their extraterritorial duties under the human rights treaties that they had ratified. International cooperation was crucial in promoting the right to food for all, and he encouraged Member States to support the establishment of a global fund to assist developing countries in creating national social protection floors. It was an achievable, affordable goal, but rich countries must do more to support efforts by poor countries, and political will was needed.

78. On other matters, investment in fish farming and aquaculture was the best solution to meet burgeoning demand for fish. While that industry was extremely well developed in China and other parts of Asia, it had not been established at all in Latin America or Sub-Saharan Africa. Regarding the synergies between the different initiatives relating to fishing and the right to food, the international guidelines on securing sustainable small-scale fisheries, currently being developed by FAO were very closely aligned with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, and he was working closely with the Committee on Fisheries to inject a right-to-food approach into those new guidelines. Good progress was being made in identifying solutions, good practices and recommendations that could assist States in managing the challenges ahead.

79. **Ms. Kunanayakam** (Chair-Rapporteur of the Working Group on the Right to Development), presenting the Report of the Working Group on its thirteenth session (A/67/178), said that deepening global and systemic crises were affecting developing countries in particular, as well as specific social groups such as youth, migrant workers and the elderly in all countries. International solidarity was therefore crucial

to ensure that the right to development was enjoyed by all.

80. At its thirteenth session, the Group had focused on reviewing the draft criteria developed by the high-level task force on implementation of the right to development. Meetings had previously been held with Governments, regional and political groups, United Nations agencies and other stakeholders to reach agreement on the methodology to be adopted and the programme of work for the session. During the session, the Group had completed a first reading of the draft criteria and formulated proposals for additional criteria on the basis of comments received from all participants.

81. While the Group welcomed the first reading of the draft criteria, it acknowledged the need to refine both the draft criteria and corresponding operational subcriteria with the help of experts. It recommended to the Human Rights Council that it should continue its consideration of the draft operational subcriteria at its fourteenth session, and that it should request the Office of the United Nations High Commissioner for Human Rights to make available on its website and to the Group the comments submitted by stakeholders, and to prepare a consolidated document of all conclusions and recommendations. It also recommended that the Chair-Rapporteur should hold informal consultations with stakeholders in preparation for its fourteenth session, and invited the High Commissioner for Human Rights and the Chair-Rapporteur to further encourage the active participation of all stakeholders in its work.

82. At its recent session, the Council endorsed the Group's recommendations and decided that a two-day informal intersessional intergovernmental meeting of the Group should be convened involving all relevant stakeholders. It also decided to consider extending the Group's meeting time. She had already held informal consultations with regional and political groups, and would report on the outcome at the Group's next session in 2013. During the intersessional period, she would redouble her efforts to encourage all delegations, United Nations agencies, international organizations, non-governmental organizations and indigenous peoples' groups to constructively engage in the review process.

83. The right to development remained relevant to the global challenges facing humanity, and increasing globalization of economies and their interdependence underlined the importance of international solidarity and cooperation in securing the future of all countries and peoples. The right to development concerned the entire international community, and appropriation of the values underpinning that right would contribute towards a greater understanding of its multidimensional character and help the Group in promoting a comprehensive, collective and concrete approach to its implementation.

The meeting rose at 12.50 p.m.